

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #2	CCRB Case #: 201906427	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/15/2019 3:00 AM	Location of Incident: § 87(2)(b)	Precinct: 34	18 Mo. SOL 12/15/2020	EO SOL 8/1/2021	
Date/Time CV Reported Tue, 07/23/2019 9:50 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 07/23/2019 9:50 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			034 PCT
2. POM Josue Torres	21771	960031	MAN CT
3. POM Christophe Harrington	16553	964543	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Alberto Minier	03733	955199	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B. POM Josue Torres	Abuse: Police Officer Josue Torres entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C. POM Christophe Harrington	Abuse: Police Officer Christophe Harrington entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
D. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)
E. Officers	Abuse: Officers searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
F. Officers	Abuse: Officers failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Case Summary

On July 23, 2019, § 87(2)(b) filed this complaint by telephone on the behalf of his mother, § 87(2)(b).

On July 15, 2019, at approximately, at approximately 3:20 PM, officers responded to § 87(2)(b) and § 87(2)(b)'s residence located at § 87(2)(b) in Manhattan, to conduct a wellness check requested for § 87(2)(b). § 87(2)(b) was not home, and § 87(2)(b) was in the apartment alone and opened the door for the officers. When they asked if they could enter to verify § 87(2)(b)'s well-being, she informed them that he was not at home – but invited them in to check for themselves. Upon entering the apartment along with members of the New York Fire Department (FDNY), the officers – including Police Officer Josue Torres and Police Officer Christopher Harrington of the 34th Precinct – found that § 87(2)(b)'s bedroom door was locked (**Allegations A, B, and C: Abuse of Authority – Premises Entered**, § 87(2)(g)). The officers and the FDNY units then allegedly proceeded to forcibly open the door and caused damage to it in the process (**Allegation D: Abuse of Authority – Property Damage**, § 87(2)(g)). After the officers then inspected the room and found no one inside, all NYPD and FDNY personnel exited the premises without engaging in any further action (**Allegation E: Abuse of Authority – Premises Searched**, § 87(2)(g)). § 87(2)(b) allegedly received no business card from any officer on scene (**Allegation F: Abuse of Authority – Failure to Provide Business Card**, § 87(2)(g)).

Body-Worn Camera (BWC) footage of this incident was requested but none was found by the NYPD (Board Review 13).

Findings and Recommendations

Allegation (A) Abuse of Authority: Officers entered § 87(2)(b), in Manhattan.

Allegation (B) Abuse of Authority: Police Officer Josue Torres entered § 87(2)(b), in Manhattan.

Allegation (C) Abuse of Authority: Police Officer Christophe Harrington entered § 87(2)(b), in Manhattan.

Allegation (D) Abuse of Authority: Officers damaged § 87(2)(b)'s property.

Allegation (E) Abuse of Authority: Officers searched § 87(2)(b), in Manhattan.

Allegation (F) Abuse of Authority: Officers failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) was interviewed in person on August 5, 2019 (Board Review 01). Sergeant Albert Minier of the 34th Precinct was interviewed on January 7, 2020 (Board Review 02), Police Officer Christopher Harrington of the 34th Precinct was interviewed on January 28, 2020 (Board Review 03), Police Officer Jose Peralta of the 34th Precinct was interviewed on February 25, 2020 (Board Review 04), and Police Officer Josue Torres of the 34th Precinct was interviewed on September 25, 2020 (Board Review 05).

§ 87(2)(b) stated that when she opened the door there were approximately four uniformed police officers along with several individuals who appeared to be FDNY personnel. The officers informed § 87(2)(b) that a 911 caller had reported that § 87(2)(b) was in a state of psychiatric distress and possibly “committing suicide” inside the apartment. § 87(2)(b) suspected that the 911 caller

was likely § 87(2)(b)'s estranged ex-girlfriend, who had made similar calls in the past. She informed the officers that § 87(2)(b) was not in any self-danger and that he had gone out for the night. When the officers asked if they could enter to check the premises for themselves, § 87(2)(b) invited them in and pointed them to § 87(2)(b)'s bedroom.

§ 87(2)(b)'s bedroom door was locked with a key and the officers and the FDNY personnel began to force the door open by doing something to the doorknob, during which time one of the officers kicked the bottom of the door. When they eventually accessed the bedroom, the officers conducted a visual inspection and confirmed that § 87(2)(b) was not inside. All NYPD and FDNY personnel then exited the premises without searching anywhere else and without providing any additional information to § 87(2)(b). Later that morning, § 87(2)(b) noticed that § 87(2)(b)'s bedroom doorknob was broken, and the bottom of his door frame dented. While she did not request a business card from the officers, no one independently provided one to her. § 87(2)(b) could only describe three of the officers as a Hispanic male, a white female, and a white male; she recalled no other details.

Multiple queries for BWC footage returned negative results. NYPD documents though established the following facts. Based on the 34th Precinct's Resource Recapitulation Log (Board Review 06), only two police units relayed radio communications regarding this incident under ICAD EVENT # § 87(2)(b). Police Officer Christopher Harrington and Police Officer Josue Torres, designated unit 34RES1-1; and Sergeant Minier and his operator, as unit SGT-1. The finalized Roll Call (Board Review 07) for the tour confirms that Police Officer Harrington and Police Officer Torres were in fact assigned as unit 34RES1-1 (and were the only officers assigned to a Response Auto unit) and that Sergeant Minier was their patrol supervisor.

The EVENT information in ICAD § 87(2)(b) (Board Review 08) shows the following: At 3:13 AM, a 911 caller (§ 87(2)(b)) informs the operator that her friend § 87(2)(b) is suffering from depression and expressing suicidal ideation; she says he told her "he didn't want to live anymore," and that he mentioned taking "pills." Providing § 87(2)(b)'s address and physical description, the 911 caller requests that a wellness check be conducted. The police dispatcher then relays the above over radio as an EDP-involved job, prompting the dispatch of unit 34RES1-1 to respond to the location. The EVENT information shows that unit 34RES1-1 soon arrived at § 87(2)(b), at 3:22 PM, along with Emergency Medical Service (EMS) technicians. At 4:02 AM it notes, "RMP Requested for patient behind locked door" by EMS and shortly thereafter there is a note that an unspecified RMP had arrived on scene. At 4:14 AM, EMS reported that "APU gained entry no [patient]" and the job is closed a disposition is assigned as "unnecessary." Though it indicates that they were dispatched at the inception of the incident, the EVENT has no notation indicating that 34SGT-1 or ESU ever arrived (10-84) at the incident location.

Though at times inaudible due to low audio quality, the police radio communications for the relevant time period show that a unit identifying as "[3]4 Response 1" transmitted several messages regarding the incident at § 87(2)(b) (Board Review 09, 14). The last of these communications was transmitted at approximately 4:15 AM, or 58:32 in the audio recording, at which time "34 Response 1" tells the dispatcher, "Be advised no EDP." This corresponds to the relevant entry in the Resource Recapitulation Log, which shows the job completion time as 4:15 AM. However, the radio communications notably contain no discernible references to the other information in the EVENT timeline, such as the presence and/or activity of EMS personnel at the scene, or the transmissions regarding the "locked door," the request for an RMP at 4:02 AM, and the "gained entry." These discrepancies between the EVENT and the radio communications were likely the result of the fact that those messages in the EVENT were given by EMS or other FDNY personnel, rather than officers, and therefore are not reflected in the NYPD radio transmissions.

recording obtained by the investigation.

Police Officer Torres testified that he had no knowledge or recollection of responding to or being involved in any activity at § 87(2)(b). He did not recognize § 87(2)(b) by photograph. Police Officer Torres acknowledged that he and his partner Police Officer Harrington had their assignment changed at the beginning of their tour from “Skywatch” (a fixed location tower post) to patrol unit 34RES1-1, and that they maintained this assignment until the end of their tour. Police Officer Torres also reviewed both the Resource Log and the relevant EVENT and acknowledged that the former document appeared to show him or Police Officer Harrington in radio communications about the incident, and that the latter showed unit 34RES1-1 as first to arrive at the scene and as the unit relaying the final disposition as 90Y. Police Officer Torres, however, still did not recall the incident in any manner and could offer no explanation as to why the documents specifically logged him and Police Officer Harrington as the responding unit.

Police Officer Harrington stated that Police Officer Torres was his partner, but that both officers were assigned to Skywatch, a fixed location tower post located elsewhere in the Precinct and required to remain there for the whole tour. Police Officer Harrington also denied having any knowledge of or involvement with the police response to § 87(2)(b).

Sergeant Minier also stated that he had no knowledge or recollection of the incident. He acknowledged that as the patrol supervisor, he was likely to relay radio communications to dispatch units or issue directives. However, he did not recall doing so with regards to any EDP-related jobs at § 87(2)(b). Sergeant Minier reviewed the Resource Recap Log but it did not refresh his recollection as to what he might have transmitted about the incident to cause his name to be logged into the record.

Police Officer Peralta stated that he was assigned to the Skywatch post with Police Officer Patrick McGurk, and that the two officers remained there for the entirety of their tour. Police Officer Peralta had no recollection of responding to the incident location either.

All of the interviewed officers’ memo books were consistent with the statements they provided, and none had any notations regarding the incident in question (Board review 10).

The investigation submitted multiple requests to the NYPD to conduct an Automatic Vehicle Locator (AVL) query for the incident location, to determine if any of the above-referenced officers’ vehicles were in the vicinity at the time of the incident. The first of these requests was submitted to the NYPD in April 2020. After several follow-ups, the NYPD ultimately responded in June 2021 that AVL queries could only be conducted within a year of the incident date (Board Review 11).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been a party.
- Police Officer Torres has been a member of service for five years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Harrington has been a member of service for three years and has not been a subject in any prior CCRB complaints.

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim query was submitted to the New York City Office of the Comptroller on July 19, 2021. The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 02

Investigator:	<u>/sprakash</u>	<u>Inv. Santosh Prakash</u>	<u>7/19/21</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Alexander Opoku-Agyemang</u>	<u>IM Alexander Opoku-Agyemang</u>	<u>7/19/2021</u>
	Signature	Print Title & Name	Date